IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPLICATION No.2964 of 2007

Subhash Pandurang Desai ..Applicant.

Vs.

The State of Maharashtra ..Respondent.

Mr Rahul S. Kate, Advocate for the Applicant.

Ms S. D. Shinde, APP for the State.

CORAM: V. C. DAGA,J.
DATED: 7TH SEPT, 2007.

P.C.:-

1. Heard learned Advocate for the applicant- accused and learned A.P.P.for the State.

2. Perused application and the material available on record.

3. The applicant-accused is seeking anticipatory bail in Crime No. 143 of 2007 registered with Walchandnagar Police Station for the offence punishable under Section 3 (1) (x), 7 (1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act 1989 and under Sections 323, 324, 148, 147, 504, 506, 509 of the Indian Penal Code.

4. Allegations made against the applicant are that the applicant-accused had abused the complainant by referring him; as, "Mahardya". That is how, the provisions of Prevention of Atrocities Act ("the Act" for short) were invoked.

5. The learned counsel for the applicant submits that the complaint does not contain any material with regard to the caste of the complainant and/or accused, which is condition precedent for invoking provisions of the Act. He, thus, submits that the provisions of the Act would not get attracted for want of requisite requirement as indicated herein. He placed reliance on the judgment of this Court in the case of **Bai @ Laxmibai v/s. The State of Maharashtra, 2001 ALL MR (Cri) 219 and Manohar Vs. State, 2005 ALL MR 2602;** wherein, this Court held that so long as the caste of the complainant is not disclosed, no F.I.R. can be registered for the offence under Section 3 (1) (x) of the S.C. and the S.T. (Prevention of Atrocities) Act, 1989.

6. Relying on aforesaid two judgments, learned counsel for the applicants, submits that the applicant would be entitled for bail.

7. The learned A.P.P. for the State concedes and submits that the judgments cited supra would be applicable to the facts of the case with full force and that the provisions of Atrocities Act would not get attracted. So far as the other offences are concerned, she submits that all those offences are bailable.

8. Having heard both the parties and in the above backdrop, prima facie, I am inclined to grant anticipatory bail to the applicant.

9. The applicant,Subhash Pandurang Desai, in the event of arrest in C.R. No.143 of 2007 registered with Walchandnagar Police Station, be released on bail in the sum of Rs.10,000/-(Rupees Ten Thousand) with one surety to make up the said amount on the following terms and conditions:

a] that the said applicant should report to Walchandnagar Police Station,once in a week i.e. on every Monday between 3.00 to 5.00 p.m.till filing of the charge sheet.

b] the said applicant shall not,

directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

c] the said applicant shall not pressurise witnesses and that he shall co-operate with the Investigating agency, if required.

10. This order of anticipatory bail shall remain in force till the filing of the charge sheet. It would be open for the said applicant to apply for regular bail before the regular Court.

11. Any observation made in this order shall not be construed as finding or expression on merits of the case at the time of trial.

12. The application is allowed in the above terms.

(V.C.DAGA,J.)